

H. CULTURAL AND PALEONTOLOGICAL RESOURCES

This section evaluates the proposed project's potential impacts to cultural and paleontological resources. Cultural resources are sites, buildings, structures, objects, and districts that have traditional or cultural value for the historical significance they possess. Paleontological resources, as a subset of cultural resources, are fossilized remains of prehistoric plant and animal life.¹ CEQA requires that effects to cultural and paleontological resources by discretionary projects be considered in the planning process.

This section presents: (1) a summary of the methods used to identify cultural and paleontological resources in and adjacent to the project site; (2) an overview of the City of Milpitas' paleontological and cultural history and a description of the cultural resources within and adjacent to the project site; and (3) mitigation measures for impacts to cultural and paleontological resources that may result from the implementation of the proposed project.

1. Setting

This section describes the cultural and paleontological settings of the project area. Included in this section are: (1) a summary of the methods used to obtain information about baseline environmental conditions; (2) an overview of the project area's cultural and paleontological settings; (3) a summary of known cultural resources in and adjacent to the project area; (4) an analysis of the project area's archaeological sensitivity; and (5) the regulatory context that applies to cultural resources in the project area.

a. Methods. To identify cultural resources in and adjacent to the project site, LSA conducted background research, including a records search and literature review, consultation with potentially interested parties, and a field survey. Information was also derived from a previously-conducted historical resource evaluation which is available for review at the City of Milpitas Planning Department. To identify paleontological resources, LSA conducted a fossil locality search and literature review for the project site and adjacent areas. For details about the methods, sources consulted, and findings for the cultural and paleontological resources study, please refer to the technical report which is available for review at the City of Milpitas Planning Department. The results of the consultation are summarized below.

LSA sent letters and maps to potentially-interested parties to solicit public involvement in this environmental review. The parties contacted and the results of the contacts are provided below.

- On August 10, 2004, LSA sent a letter and map depicting the project site to the Native American Heritage Commission (NAHC) in Sacramento asking for a review of their sacred lands file for Native American cultural resources that might be affected by the proposed project. Ms. Debbie Pilas-Treadway, NAHC Environmental Specialist III, responded in a faxed letter dated August 16, 2004, that a review of the sacred lands file showed no known Native American cultural resources that might be affected by the proposed project.
- On August 10, 2004, LSA sent a letter and map depicting the project site to the Santa Clara County Historical and Genealogical Society (Society) requesting information or concerns

¹ Society for Vertebrate Paleontology, 1995. Conformable Impact Mitigation Guidelines. *Society for Vertebrate Paleontology News Bulletin* 163. January.

regarding the proposed project. No response to LSA's letter has been received to date. On September 3, 2004, LSA made a follow-up telephone call to Ms. Mary Hamil, liaison for the Society. Ms. Hamil stated the Society is interested in genealogies and had no concerns about the project.

- On August 10, 2004, LSA sent a letter and map depicting the project site to the Santa Clara County Historical Heritage Commission (Commission) requesting information or concerns regarding the proposed project. No response to LSA's letter has been received to date. On September 3, 2004, LSA made a follow-up telephone call to the Commission, and left a message for Ms. Dana Peak, Commission coordinator, with the Commission clerk. No response to the follow-up call has been received to date.
- On August 10, 2004, LSA sent a letter and map depicting the project site to the Milpitas Historical Society (Society) requesting information or concerns regarding the proposed project. Mr. Robert Burrill, Acting President of the Society, responded by letter to Mr. James Lindsay, Acting Planning Manager for the City, on August 4, 2004. Mr. Burrill expressed "significant concern" about the project on the behalf of the Society, and made the following statements:
 - 1) The Society believes the Winsor Blacksmith Shop should be saved from demolition, and should ideally be considered a valuable part of the library wing;
 - 2) If demolition is planned for the Winsor Blacksmith Shop, the Society would like to have it carefully dismantled saving the structure and heritage (in particular, the branding impressions printed into the wood on the south side of the building); and
 - 3) The Society wishes to be kept informed of discussions regarding Milpitas' heritage.

On September 7, 2004, LSA made a follow-up telephone call to the Society. Mr. Burrill stated that "[he] and the Society are concerned about maintaining the heritage of Milpitas, and in addition to the project area buildings, the landscaping and trees are an important part of the community. Ideally, the Society would like the North Main Street area preserved, and, over time, to include additional examples of Milpitas architecture." Mr. Burrill further stated that "while the Society recognizes the benefits of a "clean-up" of the town, they question the construction of high density structures overshadowing Milpitas' oldest buildings."

b. Cultural Setting. This section summarizes the project area's history from the time that Native Americans first entered the area through the historical period and modern times. Following this, a project specific historical background is provided.

(1) Prehistory and Ethnography. The Milpitas area was probably settled by Native Americans between 12,000 and 6,000 years ago. Penutian-speaking peoples migrated into central California around 4,500 years ago and were firmly settled around San Francisco Bay by 1,500 years ago. The descendants of the native groups who lived between the Carquinez Strait and the Monterey area prefer to be called Ohlone,² although they are often referred to by the name of their linguistic group, Costanoan. Milpitas is within the ethnographic territory of the Alson tribe of Ohlone, who

² Margolin, Malcolm, 1978. *The Ohlone Way: Indian Life in the San Francisco-Monterey Bay Area*. Heyday Books, Berkeley, California.

occupied the area near the mouth of the Coyote Creek.³ The basic Ohlone social unit was the extended family household, which was made up of about 15 individuals.^{4,5} An Ohlone household was made up of about 15 individuals with households grouping together to form villages, which in turn combined to form tribelets. Households grouped together to form villages. In the Milpitas area, many of these villages were located adjacent to the Coyote Creek and Penitencia Creek.

Ohlone culture was radically transformed when European settlers arrived in northern California. These settlers set up the mission system, used the native peoples for labor, and almost destroyed the native culture by exposing the Ohlone to diseases to which they had no immunity. After the secularization of the missions in 1834, native people in the Bay Area moved to ranchos, where they worked as manual laborers.⁶

(2) History. The following was primarily derived from Page and Turnbull, Inc.'s *Draft Historic Resource Evaluation for New Library in Midtown Milpitas*.⁷ This report is available for review at the City of Milpitas Planning Department.

The De Anza expedition first explored Milpitas and the Santa Clara Valley in 1776, and, by 1777, Mission Santa Clara was established. Lands surrounding the mission, including what eventually became Milpitas, were administered by Mission Santa Clara, and farmed and grazed to support the mission operations. Following the secularization of mission lands, Rancho Milpitas was granted to Jesus Maria Alviso in 1835. Alviso built four adobe dwellings, one which is on the corner of Calaveras Road and Piedmont Road. In 1996, the City of Milpitas purchased the Alviso Adobe, and has plans to refurbish it.

Milpitas developed due to its location on the Mission Road, which linked Mission Santa Clara with the Pueblo of San Jose. The town of Alviso, west of Milpitas, was established in 1849. In 1855, Alviso Road was built to link Alviso and Mission Santa Clara. Milpitas, Spanish for "little corn fields," developed at the junction of the two roads. The town incorporated in 1855, and as it grew, farming continued to be a vital economic enterprise in addition to the development of new businesses. In 1855, Milpitas' first business was Frederick Creighton's general store at the intersection of Alviso and Mission roads. By the late 1850s, Milpitas had a blacksmith shop, school, hotel, and post office. During the same period, Milpitas became a transit stop for the San Jose to Oakland stagecoach line.

In 1867, the Western Pacific Railroad established a station in Milpitas, spurring additional commercial growth. Portuguese farmers and Chinese laborers helped Milpitas gain the reputation of a leading farming community in the late 1800s. Small commercial enterprises continued to develop

³ Milliken, Randall, 1995. *A Time of Little Choice: The Disintegrations of Tribal Culture in the San Francisco Bay Area, 1769-1810*. Ballena Press, Menlo Park, California.

⁴ Harrington, J.P., 1933. Report of Fieldwork. *Annual Report of the Bureau of American Ethnology for the Years 1931-1932*.

⁵ Broadbent, Sylvia M., 1972. *The Rumson of Monterey: An Ethnography from Historical Sources*. Contributions of the University of California Archaeological Research Facility, Berkeley

⁶ Levy, Richard, 1978. Costanoan. In *California*, edited by Robert F. Heizer, pp 491-492. Handbook of North American Indians, Volume 8; William C. Sturtevant, general editor. Smithsonian Institution, Washington, D.C.

⁷ Page and Turnbull, 2004. *Draft Historic Resources Evaluation for New Library in Midtown Milpitas*. Page and Turnbull, San Francisco, California.

and were concentrated along Main Street, and Milpitas' population increased from 200 in the 1880s to 500 in 1900. The town had two churches, a new town hall, several grain warehouses, a cannery, and a meat business.

Milpitas continued to develop and grow through the 1900s and in the years following World War II, experienced tremendous growth. Today, Milpitas is a residential suburban community and a "Silicon Valley" city supporting high tech companies.

(3) Project Specific Historical Background. This section provides a more focused overview of the land use history of the project area during California's Spanish, Mexican, and American periods.

Main Street. Main Street, known as Mission Road in the 1800s, connected Mission Santa Clara with the Pueblo of San Jose. In 1850, Mission Road was designated as the first public highway in Santa Clara County, known locally as the Oakland Highway. In the 1850s, the San Jose to Oakland stagecoach line ran along the Oakland Highway. Main Street was Milpitas' economic and social center, and contained the town's first buildings. Penitencia Creek originally ran behind the buildings on the west side of Main Street where, according to the first mayor of Milpitas, Tom Evatt, Native American artifacts were recovered during the construction of businesses. In the 1960s, Penitencia Creek was moved 500 feet west of Main Street to alleviate flooding problems.⁸

The original Milpitas Grammar School, at 160 North Main Street, was built in 1855. The school was destroyed by fire in 1912, and rebuilt at the same location in 1915. Also destroyed in the fire were a carriage barn, behind the school, and a storage building, just south of the school.⁹ Since 1956, the school has served as a youth center dance hall, the police department, the public library, Chamber of Commerce, Milpitas City Hall, and a community center. From 1969 until 1983, the building served solely as the community center. Following the closure of the community center, the building was maintained as a senior center until 2000. A major renovation was done approximately 10 years ago remodeled the building and removed and altered much of the building's historic fabric (primarily interior).

The DeVries Home, at 163 North Main Street, was originally the Dr. Renselaer Smith Home. Dr. Smith, Milpitas' second doctor, lived and worked in his home, which was built in 1915. The house was designed in the Prairie architectural style, characterized by hipped roofs, severely projecting eaves, and heavy massing. The grounds of the house were accented with ornamental plantings, shrubbery, and conifers. In the 1930s, a garage and outbuildings were constructed behind the house. Francis and Josephine DeVries purchased the property in the late 1940s, and in the 1950s, a two-story wood-frame home was constructed behind the main house. The DeVries family owned and resided at the property until 1995, when it was purchased by the City of Milpitas.

The Winsor Blacksmith Shop, at 112 North Main Street, was built in 1926. Brothers Tom and George Winsor designed and made branding irons and agricultural tools for the local ranching and farming community. The blacksmith and woodworking shop building changed little over the years

⁸ Munzel, Steve, 2000, op. cit.

⁹ Munzel, Steve, 2000, op. cit.

and remained in the Winsor family until the City of Milpitas leased it in the 1990s. The City used the building as a corporation/maintenance garage.

The Dutra Home, at 86 North Main Street, was originally the Smith Home. The house was built in the 1920s for Clarence Smith, a local saloon owner. The Craftsman-style bungalow was originally just south of Smith's tavern, but was moved in the 1930s to its current location when additional parking was needed for the tavern. At that time, North Main Avenue was a residential area with twelve homes. The Dutrass purchased the home from Clarence Smith.

Winsor Avenue. Three additional buildings within the project site are on Winsor Avenue, which held the name of Main Street when today's Main Street was then called the Oakland Highway.¹⁰ Two of the properties were jointly owned by George and Tom Winsor, and one was solely owned by George Winsor.

George and Tom Winsor leased out land behind their blacksmith shop at 130 Winsor Avenue. The construction date of the building at 130 Winsor is unknown; however, a permit was obtained for a sewer connection in 1956. The one-story structure was a manufacturing warehouse for Larsco Products, Inc., a paint manufacturing firm. In 1961, Larsco Products diversified and opened a retail operation, Larson's Paint Store, inside the same building. Len & Gil's Auto Repair Shop occupied the property from 1966 until the early 1980s. Milpitas Transmission is the present occupant.

George Winsor owned the one-story wood-frame building at 110 Winsor Avenue, first documented in 1964. Duane Lundy Plastics used the building as a warehouse until 1971, when the building served as a Post Office annex and was a temporary mailroom. Current usage of the building is unknown.

A 1958 electrical permit is the earliest known record for 94 Winsor Avenue. The one-story wood-frame gabled building was occupied as an office and storage space by Ramco Equipment Rental, Inc. B & W Appliance and the Milpitas Glass Company leased the building in 1961. The structure was remodeled in the late 1970s, and the current use of the property is car-related.

For additional details about historical development in the project area, please refer to the historical resource evaluation which is available for review at the City of Milpitas Planning Department.

Adjacent to the Project Site. The gas station on the corner of Main Street at Carlo was the Spangler Brothers' Service Station. The Spangler family emigrated from the Azores in the 1880s and opened the station in the 1920s. The family also operated the Overland Motor Company on the corner of Winsor and Carlo streets, beside the gas station. Today Spangler's Station is Main Street Gas. This oldest continually operated Main Street commercial business has not visibly changed since it was built.

c. Cultural Resources in the Project Area. This section describes the known cultural resources and archaeological sensitivity of the project area. Some of the information that follows is derived from *Draft Historic Resource Evaluation for New Library in Midtown Milpitas*,¹¹ while the rest was obtained through background research, consultation with interested parties, and a field survey. Please see the cultural resources technical study for further details about the study methods and results.

¹⁰ Sanborn Map Company, 1930. *Milpitas, Santa Clara County, California*. Pelham, New York.

¹¹ Page and Turnbull, 2004, op. cit.

Background research identified seven architectural cultural resources in the project area. These resources are: (1) the DeVries Residence/Smith Home (DeVries Home); (2) the Milpitas Grammar School; (3) the Winsor Blacksmith Shop; (4) the Dutra Home; (5) 130 Winsor Avenue; (6) 110 Winsor Avenue; and (7) 94 Winsor Avenue. Each architectural resource and its CEQA status is summarized below.

- *DeVries Home.* The DeVries Home, located at 163 North Main Street (Assessor's Parcel Number [APN] 22-8-31), was constructed in 1915. The house was designated a Cultural Resource in Milpitas because: 1) it was constructed in the Prairie style, an architectural style developed and popularized from the 1900s to the 1920s, primarily through the works of Frank Lloyd Wright; and 2) it was originally built by Dr. Renselaer Smith, Milpitas' second doctor. The DeVries Home grounds contain three outbuildings (a two-story residence, a garage, and a tankhouse), ornamental plantings, and fruit trees. The garage, tankhouse, and two conifers are considered contributing features of the DeVries Home. The DeVries Home is currently unoccupied.



DeVries Home

The DeVries Home meets the definition of a historical resource under CEQA in two ways. The DeVries Home: (1) appears eligible for listing in the California Register of Historical Resources (California Register); and (2) is listed in the *Register, Cultural Resources in Milpitas*¹² (published pursuant to Milpitas Municipal Code, Title XI, Chapter 4). The home is also listed in the *Historic Sites Inventory, Milpitas, California*,¹³ and identified in the City's General Plan as a cultural resource and a "prime candidate" for preservation.¹⁴

In addition to other qualifying factors, CEQA Section 15064.5(a) states that a cultural resource may be considered a historical resource if it meets the eligibility requirements for listing on the California Register, or if it is included in a local register of historical resources.

- *Milpitas Grammar School.* The Milpitas Grammar School, located at 160 North Main Street (APN 28-24-019), was constructed in 1915. The building was designated a Cultural Resource in Milpitas because: 1) it is one of the only examples of neo-classical public architecture in Milpitas; 2) it is the same site as Milpitas' first school house; and 3) it is the oldest surviving school in Milpitas. Since its construction, the building has housed, at different times, a grammar school, a dance hall, a community center, a police department, a chamber of commerce, a public

¹² City of Milpitas, 1988. *Register, Cultural Resources in Milpitas*.

¹³ Marvin-Cunningham, Judith, and Paula Juelke Carr, 1990. *Historic Sites Inventory, Milpitas, California*. Foothill Resource Associates, Murphys, California.

¹⁴ Open Space and Environmental Conservation Element in *Milpitas General Plan*. Milpitas, California.

library, and a senior center. By 2000, the senior center had vacated, and plans were formulated to convert the building to part of the Milpitas Library.

The Milpitas Grammar School meets the definition of a historical resource under CEQA in four ways. The Milpitas Grammar School is: (1) listed in the National Register; (2) listed in California Register; (3) listed in the *Register, Cultural Resources in Milpitas*¹⁵; and (4) listed in the *Santa Clara County Heritage Resources Inventory*.¹⁶ The building is listed in the *Historic Sites Inventory of Milpitas, California*,¹⁷ and identified in the City's General Plan as a cultural resource and a "prime candidate" for preservation.¹⁸



Milpitas Grammar School

- *Winsor Blacksmith Shop*. The Winsor Blacksmith Shop, located at 112 North Main Street (APN 28-24-26), was constructed in 1926. The Winsor Blacksmith Shop is a double-height, one-story wood frame building constructed in the false-front commercial style. The building originally housed a smithy and woodworking shop run by Tom and George Winsor; the shop was well known and served the blacksmithing needs of farmers and ranchers both within and outside of Milpitas. The building has undergone relatively little modification since its construction. In the 1990s, the City leased the building and used it as a corporation yard and maintenance facility.



Winsor Blacksmith Shop

The Winsor Blacksmith Shop meets the definition of a historical resource under CEQA in three ways. The Winsor Blacksmith Shop: (1) appears eligible for listing in the California Register; (2) is listed in the *Register, Cultural Resources in Milpitas*,¹⁹ and (3) is listed in the *Santa Clara County Heritage Resources Inventory*.²⁰ In addition, the building is listed in the *Historic Sites Inventory of Milpitas, California*.²¹

¹⁵ City of Milpitas, 1988, op. cit.

¹⁶ Santa Clara County Historical Heritage Commission, 1975. *Santa Clara County Heritage Resource Inventory*. Compiled and edited by Pauline Pace, Santa Clara County Historical Heritage Commissioner.

¹⁷ Marvin-Cunningham, Judith and Paula Juelke Carr, 1990, op. cit.

¹⁸ City of Milpitas General Plan, 2002, op. cit.

¹⁹ City of Milpitas, 1988, op. cit.

²⁰ Santa Clara County Historical Heritage Commission, 1975, op. cit.

²¹ Marvin-Cunningham, Judith and Paula Juelke Carr, 1990, op. cit.

- *Dutra Home.* The Dutra Home, located at 86 North Main Street (APN 28-24-25), was constructed in the 1920s. The Dutra Home is a one-story Craftsmen-style bungalow originally located near the intersection of Main and Serra streets in Milpitas. Sometime before 1950, the building was moved to its current location. Prior to its move, the building was owned by Clarence Smith, a local tavern owner who operated Smith's Corner near Main and Serra streets. The Dutra Home is currently used as a private residence.



Dutra Home

The Dutra Home does not meet the definition of a historical resource under CEQA. The building appears eligible for the National Register in a historic resources survey of Milpitas,²² but it has not been officially determined potentially eligible by the California Office of Historic Preservation pursuant to the requirements of Public Resources Code Section 5024.1(g)(3). Page and Turnbull found that the Dutra Home does not appear individually eligible for listing on the California Register, nor does it qualify under the other criteria necessary for consideration as a historical resource under CEQA (Section 15064.5(a)).²³

- *130 Winsor Avenue.* This building, located at 130 Winsor Avenue (APN 28-24-15), was constructed sometime before 1956. The building at 130 Winsor Avenue is a one-story wood-frame warehouse used for paint manufacturing in the 1950s; general auto repair in the 1960s; and transmission repair in the 1980s. The building is currently occupied by Milpitas Transmission.



130 and 110 Winsor Avenue

The building at 130 Winsor Avenue does not meet the definition of a historical resource under CEQA. The building does not appear eligible for listing on the California Register, nor does it qualify under the other criteria necessary for consideration as a historical resource under CEQA (Section 15064.5(a)).

²² Marvin-Cunningham, Judith and Paula Juelke Carr, 1990, op. cit.

²³ Page and Turnbull, 2004, op. cit.

- *110 Winsor Avenue.* This building, located at 110 Winsor Avenue (APN 28-24-16), was constructed sometime before 1964. The building at 110 Winsor Avenue is a one-story wood-frame warehouse originally owned by George Winsor of the Winsor Blacksmith, but later served as a plastics company warehouse in 1964, and a post office annex in 1971. The current use of the building is unknown.

The building at 110 Winsor Avenue does not meet the definition of a historical resource under CEQA. The building does not appear eligible for listing on the California Register, nor does it qualify under the other criteria necessary for consideration as a historical resource under CEQA (CEQA Section 15064.5(a)).

- *94 Winsor Avenue.* This building, located at 94 Winsor Avenue (APN 28-24-20), was constructed sometime before 1956. The building at 94 Winsor Avenue is a one-story wood-frame warehouse originally owned by George Winsor of the Winsor Blacksmith shop, but later served as an appliance store/glass repair facility in 1961. Sometime in the 1970s, the building was remodeled. The current use of the building is car-related.



94 Winsor Avenue

The building at 94 Winsor Avenue does not meet the definition of a historical resource under CEQA. The building does not appear eligible for listing on the California Register, nor does it qualify under the other criteria necessary for consideration as a historical resource under CEQA (*CEQA Guidelines* Section 15064.5(a)).

d. Archaeological Sensitivity. The project area is considered sensitive for the presence of potentially-significant prehistoric and historical archaeological deposits. Both types of sensitivity are described below.

(1) Prehistoric Archaeological Sensitivity. The project area is potentially sensitive for prehistoric archaeological deposits. Background research indicates that human occupancy and use of the general area spans 5,000 to 7,000 years before present, and possibly longer. The project area offered early inhabitants a diversity of rich ecological communities from which to gather necessary plant and animal resources. Evidence supporting the project area's sensitivity include: (1) ethnographic accounts describing prehistoric village sites near Milpitas;²⁴ (2) historical American-period accounts of Native American burials and cultural materials almost immediately south of the project area near the historical alignment of Winsor Avenue (formerly Main Street); and (3) village sites identified by archaeologists 1,600 feet south, 4,500 feet south, and roughly two miles east of the project area.²⁵ Both village sites to the south are in an environmental setting similar to that of the

²⁴ Bean, Lowell John, 1994. *The Ohlone Past and Present: Native Americans of the San Francisco Bay Region*. Ballena Press, Menlo Park, California.

²⁵ Cartier, Robert R., 2003. *Cultural Resource Evaluation of the Milpitas Community Library Project in the City of Milpitas*. Archaeological Resource Management, San Jose, California.

project area, and are located along the banks of Penitencia Creek. Prior to Euroamerican settlement of the area, Penitencia Creek flowed just west of the project area, resulting in a high potential for Native American occupation and land use. The archaeological materials that marked the location of these use and occupation areas were often subject to alluvial deposition as creeks meandered in response to historical environmental changes. In addition to prehistoric archaeological deposits identified by surface materials, many documented sites along Santa Clara Valley watercourses have been found under as much as nine feet of alluvium.²⁶ Due to the location of nearby archaeological sites, the proximity of environmentally-sensitive watercourses, and the historical accounts of prehistoric cultural materials almost immediately to the south, the project area is considered sensitive for prehistoric archaeological sites.

(2) Historical Archaeological Sensitivity. The project area is potentially sensitive for historical archaeological deposits. Historical land use in the project area has been predominantly commercial and industrial since approximately 1930. However, Sanborn maps indicate that, prior to 1930, several one and two-story wood frame dwellings with several associated outbuildings, were located in the project area. The dwellings depicted on the Sanborn map may have resulted in intact archaeological deposits. Such deposits may include backfilled privies, wells, and abandoned trash pits that remain intact underneath a protective cap of modern asphalt, buildings, and structures. Although the field survey did not identify discrete historical archaeological deposits, ground visibility in the project area was limited by modern development, which may have obscured archaeological materials. The documented historical land use in the project area suggests the potential for historical archaeological deposits in the project area.

e. Regulatory Context. The sections below briefly discuss laws, codes, and regulations applicable to cultural resources within the City of Milpitas.

(1) California Environmental Quality Act. CEQA states that a substantial adverse change in the significance of a historical resource is a significant effect on the environment (Section 15064.5(b)). CEQA defines a “historical resource” as a resource which is eligible for listing on the California Register (California Register), listed in a local register of historical resources (as defined at PRC 5020.1(k)), identified as significant in a historical resource survey meeting the requirements of section 5024.1(g) of the Public Resources Code, or determined to be a historical resource by a project’s lead agency (Section 15064.5(a)). An historical resource may also consist of “Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California... Generally, a resource shall be considered by the lead agency to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources” (Section 15064.5(a)(3)).

CEQA also applies to effects on archaeological sites (Section 15064.5(c)). A lead agency applies a two-step screening process to determine if an archaeological site meets the definition of a historical resource, a unique archaeological resource, or neither. Prior to considering potential impacts, the lead agency must determine whether a cultural resource meets the definition of a historical resource in Section 15064.5(a). If the cultural resource meets the definition of a historical resource, then it is

²⁶ Bergthold, J., 1982. *The Prehistoric Settlements and Trade Models in the Santa Clara Valley, California*. M.A. thesis, Department of Anthropology, San Francisco State University.

treated like any other type of historical resource in accordance with Section 15064.5 and 15126.4. If the cultural resource does not meet the definition of a historical resource, then the lead agency applies the second screen to determine if the resource meets the definition of a unique archaeological resource as defined in Section 21083.2(g). Should the archaeological site meet the definition of a unique archaeological resource, then it must be treated in accordance with Section 21083.2. If the archaeological site does not meet the definition of a historical resource or an archaeological resource, then effects to the site are not considered significant effects on the environment (Section 15064.5(c)(4)).

(2) City of Milpitas Cultural Resources Preservation Program. Procedures to identify and designate cultural resources are outlined in the City's Zoning, Planning, and Annexation Code (MMC XI-4). Cultural resources and historic districts may be recommended for designation by the Parks, Recreation, and Cultural Resources Commission and approved by the City Council. A comprehensive survey of the City's historic sites was completed in 1990.²⁷ There are 13 resources (sites and buildings) listed in the City's Register of Cultural Resources.

(3) City of Milpitas General Plan. The General Plan states that eight designated Cultural Resources are "prime" candidates for preservation; six of the "prime" candidate include historic buildings. Two of these buildings, the Milpitas Grammar School and the DeVries Home, are within the project area.

2. Impacts and Mitigation Measures

This section analyzes the impacts related to cultural and paleontological resources that could result from implementation of the NMSD Project. The subsections begin with criteria of significance, which establish the thresholds for determining whether a project impact is significant. The latter part of this section presents the potential cultural and paleontological impacts associated with the proposed project. Mitigation measures are provided as appropriate.

a. Criteria of Significance. Significance thresholds based on the *CEQA Guidelines* are presented for cultural resources, followed by a description of the evaluation criteria and process used for potentially significant historic properties.

(1) Cultural Resources Criteria of Significance. The proposed project would have a significant effect on cultural or paleontological resources if it would:

- Cause a substantial adverse change in the significance of a historical resource as defined in *CEQA Guidelines* Section 15064.5. Specifically, substantial adverse changes include physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be "materially impaired." The significance of a historical resource is "materially impaired" when a project demolishes or materially alters, in an adverse manner, those physical characteristics of the resource that convey its historical significance and that justify its inclusion on, or eligibility for inclusion on an historical resource list (including the California Register of Historical Resources, the National Register of Historical Resources, and Local Registers).

²⁷ Marvin-Cunningham, Judith and Paula Juelke Carr, 1990, op. cit.

- Cause a substantial adverse change in the significance of an archaeological resource pursuant to *CEQA Guidelines* Section 15064.5.
- Directly or indirectly destroy a unique paleontological resource or site.
- Disturb any human remains, including those interred outside of formal cemeteries.
- Result in the removal of heritage trees, as defined by the City of Milpitas Tree and Planting Ordinance.

In order for a resource to be eligible for listing in the California Register of Historical Resources, a building, site or object must meet the following standards:

A property must be significant at the local, state or national level, under one or more of the following criteria:

1. It is associated with events or patterns of events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
2. It is associated with the lives of persons important to the nation or California's past.
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
4. It has yielded, or may be likely to yield, information important to the prehistory or history of the State or the nation. [CEQA §15064.5(a)(3)]

b. Less-than-Significant Cultural Resource Impacts. Development of the Eastern Parking Garage element of the NMSD Project would result in the demolition of the Dutra Home and the buildings at 130, 110, and 94 Winsor Avenue. A previous evaluation concluded that none of these properties meet the definition of a historical resource under CEQA,²⁸ and therefore the buildings' demolition would not result in a significant impact.

c. Significant Cultural Resource Impacts and Mitigation Measures. Potentially significant impacts to cultural and paleontological resources that may result from project implementation are described below. Mitigation measures are provided, where appropriate, to reduce the potential impacts to less-than-significant levels.

(1) Impacts on Structures

Impact CULT-1: Implementation of the Senior Housing element of the NMSD Project would result in the relocation on-site of the DeVries Home and the demolition of the Home's contributing outbuildings and plantings. (S)

The DeVries Home is in a state of disrepair and the structural condition of the foundation requires the foundation to be completely replaced. The Senior Housing element of the Project would provide the financing necessary for the rehabilitation and ongoing maintenance of the home. However, the

²⁸ Page and Turnbull, 2004, op. cit., page 3.

design of the project cannot accommodate the home in its current location. As a result, the Home is proposed to be relocated on-site and then rehabilitated. This adaptive reuse would enable the public to experience the building and a better feeling of the role it played in Milpitas' history.

As discussed above, the DeVries Home meets the definition of an historical resource under CEQA. Although relocation of the Home would allow the structure to be rehabilitated, it would compromise the setting and integrity of the resource. The State Historic Resource Commission recognizes that moving an historic structure is sometimes necessary to avoid its demolition. An eligible resource can maintain its eligibility for the California Register if it is moved to prevent its demolition and its new location is compatible with the original character and retains (or recreates) the resource's historic features and compatibility in orientation, setting and general environment.²⁹ The relocation of the DeVries Home on the project site would maintain the orientation to North Main Street. However, demolition of the associated landscape and the contributing out buildings and the construction of the proposed Senior Housing would not allow the setting and general environment to be preserved (or recreated). As a result, the impact to this resource would be considered significant and unavoidable. Implementation of the following mitigation measures would minimize the impact on this resource, but it is not possible to reduce the impact of relocation to a less-than-significant level:

Mitigation Measure CULT-1: Prior to any relocation on site of the DeVries Home, each of the following measures shall be completed:

- Produce a full set of HABS-style large format documentary photographs. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the NWIC. The City will provide copies to the local library and the Milpitas Historical Society.
- Prepare a history of the DeVries Home that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society.

The architectural and historical documentation shall treat the DeVries Home, the conifer trees, and the outbuildings (garage and tankhouse) as a historical complex rather than an aggregation of individual resources. The documentation shall take into account the interrelatedness of the contributing features and the home. Even with mitigation, the impacts associated with relocation of the DeVries Home would remain significant and unavoidable. (SU)

Impact CULT-2: Construction of the library addition and the east parking garage adjacent to the Milpitas Grammar School could have an adverse impact on the school's historical integrity. (S)

If the design of the library addition and the east parking garage is not sensitive to the neo-classical design of the Grammar School then the construction of the addition and the east parking garage immediately adjacent to the Milpitas Grammar School could have an adverse impact on the school's historical integrity. In judging the appropriateness of new construction in the vicinity of a historical resource, it is important to determine if the new construction is compatible with basic visual elements

²⁹ California Office of Historic Preservation. *Technical Assistance Series, California Register and National Register: A Comparison (for purposes of determining eligibility for the California Register)*.

and relationships that characterize the resource. Three of the primary standards that should be met by new construction near historical resources are (1) compatibility of mass; (2) compatibility of scale; and (3) compatibility of roofline heights.^{30 31}

The following mitigation measure could reduce the potential impact to a less-than-significant level:

Mitigation Measure CULT-2: The design and construction of the library addition and the east parking garage shall follow the following basic design guidelines.

- The average height of the parking garage and library addition shall not exceed the roofline height of the grammar school.
- Any new structures shall not surround the grammar school on more than two sides.
- Any new structures shall have a mass and scale that is compatible with the grammar school.
- The design for the garage shall respect the school building's traditional design.
- Paint colors selected for the garage shall coordinate with those used for the school.

If the final design meets the criteria listed above, this impact would be reduced to a less-than-significant level. If the criteria cannot be achieved, the impact would be significant and unavoidable. (LTS or SU)

Impact CULT-3: Rehabilitation and reuse of the Milpitas Grammar School as part of implementation of the Library element of the NMSD Project could result in adverse impacts to the building's historic fabric. (S)

Rehabilitation and reuse of the Milpitas Grammar School building could result in adverse impacts to the building's historic fabric. The grammar school has already been modified significantly by its use as a city hall, library, and more recently a senior center. A major renovation done approximately ten years ago remodeled the building and removed and altered much of the building's historic fabric. The building currently can not be used for public purposes due to the mold contamination. A goal of the library project is to rehabilitate the grammar school so that its historic context can be experienced by the larger general population.

Implementation of either of the following mitigation measures would reduce this potential impact to a less-than-significant level.

Mitigation Measure CULT-3a: The Milpitas Grammar School will be rehabilitated in accordance with the Secretary's Standards.³²

³⁰ In the Secretary's Standards, which are the Secretary of the Interior's best advice for the protection of National Register properties, Standard #9 for the rehabilitation of historic buildings states that "New additions, exterior alterations, or related new construction will not destroy. . . spatial relationships that characterize the property. The new work shall . . . be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment."

³¹ Williams, Norman, Edmund Kellogg, and Frank Gilbert, 1983. *Readings in Historic Preservation: Why? What? How?* Center for Urban Policy Research, New Brunswick, New Jersey.

³² Page and Turnbull, Inc., 2004, op. cit.

If conformity with the Secretary's Standards is not possible, then the following mitigation measure shall be implemented.

Mitigation Measure CULT-3b: Prior to the rehabilitation of the Milpitas Grammar School, the building shall be documented to create a public record of the historical qualities that justify the school's National Register eligibility, and that will be available to researchers and the general public. Each of the following measures shall be completed:

- Produce a full set of HABS-style large format documentary photographs. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the NWIC. The City will provide copies to the local library and the Milpitas Historical Society.
- Prepare a history of the Milpitas Grammar School that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society. (LTS)

Impact CULT-4: Implementation of the Library and Eastern Parking Garage element of the NMSD Project would result in the demolition of the Winsor Blacksmith Shop. (S)

Project construction would result in the demolition of the Winsor Blacksmith Shop, a cultural resource which is eligible for listing on the California and National registers. Mitigation options are: (1) moving the Winsor Blacksmith Shop; or, if relocation is not feasible, (2) documentation of the resource prior to its demolition. The implementation of the following mitigation measures would minimize the project's impact on the Winsor Blacksmith Shop, but not to a less-than-significant level.

Mitigation Measure CULT-4a: After property acquisition the City shall offer the Winsor Blacksmith Shop for purchase to be removed from the property at the buyer's expense and transferred to a new lot within Milpitas. Title to the building shall be transferred subject to a covenant that requires preservation of the building's historic features.

Mitigation Measure CULT-4b: Should the City receive no bids for the Winsor Blacksmith Shop, or if building relocation is not feasible, the following documentation tasks shall occur:

- Produce a full set of Historic American Building Survey (HABS)-style large format documentary photographs of the Winsor Blacksmith Shop, including its contributing features. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the Northwest Information Center, Rohnert Park (NWIC). The City will provide copies to the local library and the Milpitas Historical Society.
- Prepare a history of the Winsor Blacksmith Shop that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society. .

- Prepare a brochure describing the historical and architectural qualities of the Winsor Blacksmith Shop to be made available at local libraries and museums.
- Salvage architectural elements and boards with brands from the Winsor Blacksmith Shop to incorporate into a display.

The impact associated with demolition of the Winsor Blacksmith Shop would remain significant and unavoidable. (SU)

(2) Grading, Excavation, and Ground Disturbing Impacts. Construction of the proposed project would require soil excavation and grading for building foundations, utilities, and parking facilities. These activities could potentially impact both cultural and paleontological resources as described below.

Impact CULT-5: Implementation of each element of the NMSD Project construction could result in impacts to archaeological deposits that may qualify as historical or archaeological resources under CEQA. (S)

The project area is sensitive for prehistoric and historical archaeological deposits. Implementation of the following mitigation measure would reduce the potential impact to a less-than-significant level.

Mitigation Measure CULT-5: Any future ground disturbing activities on the project site shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to *CEQA Guidelines* Section 15064.5 regarding discovery of archeological sites and burial sites, and *CEQA Guidelines* Section 15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. Prior to construction monitoring, prefield research shall be conducted to understand the location, potential significance, and physical condition of deposits that may be encountered, and to facilitate the in-field assessment of such deposits. In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed and implemented. If archaeological data recovery is undertaken, a report describing the methods and results of the investigation shall be prepared and submitted to the project applicant, City, and the NWIC.

Project personnel shall not collect or move any archaeological material. Fill soils that may be used for construction shall not contain archaeological materials. (LTS)

Impact CULT-6: Construction may disturb human remains, including those interred outside of formal cemeteries. (S)

Mitigation Measure CULT-6: In the event that human remains are encountered, the developer shall: (1) halt work in the immediate area of the remains; (2) contact the Santa Clara County coroner and the City of Milpitas; and (3) contact an archaeologist to evaluate the situation and make recommendations. If the remains are of Native American origin, the coroner will contact the Native American Heritage Commission, which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. The archaeologist shall recover all scientifically valuable information as appropriate, in accordance

with the recommendations of the MLD. Following the archaeologist's evaluation, a report should be prepared to document the methods, findings, and recommendations of the archaeologist conducting the work. The report shall be submitted to the City, the project applicant, and the NWIC. (LTS)

Impact CULT-7: Subsurface construction activities associated with each element of the NMSD Project may adversely impact paleontological resources. (S)

No paleontological resources were identified within or adjacent to the project area, and there is a low potential that project subsurface construction within the Holocene alluvium underlying the project area will encounter paleontological resources. However, there is a high potential that ground-disturbing construction in the Plio-Pleistocene aged alluvium (which occurs from 15-20 feet below the ground surface to 150 below the ground surface) directly underlying the younger alluvium of the project area would encounter paleontological resources.

Implementation of either of the following mitigation measures will reduce impacts to a less-than-significant level.

Mitigation Measure CULT-7a: If project subsurface construction is limited to a depth of 20 feet or less below the ground surface, the following mitigation measure shall be implemented. If paleontological resources are encountered during project construction, all work within 50 feet of the discovery should be redirected until a qualified paleontologist is contacted to evaluate the finds and make recommendations. If the finds are found to be significant, they shall be avoided by project activities and recovered in accordance with the recommendations of the paleontologist. Upon completion of the recovery, the paleontologist shall address the need for paleontological monitoring of subsequent construction activities.

After the recovery of the finds, a report documenting monitoring, methods, and findings shall be prepared by the paleontologist and submitted to the City, the project applicant, and a suitable fossil repository.

Mitigation Measure CULT-7b: If project subsurface construction occurs at depths *greater than 20 feet* below the ground surface, then the following mitigation measure shall be implemented. A paleontological assessment by a qualified paleontologist should be conducted to determine if monitoring for paleontological resources is required. The assessment shall include: (1) the results of any geotechnical investigation done for the project area; (2) specific details of the construction plans for the project area; (3) background research; and (4) limited subsurface investigation within the project area. If the possibility of paleontological resources is confirmed, a monitoring plan should be prepared and implemented in conjunction with this evaluation. Upon completion of the paleontological assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City and the project applicant.

After the recovery of the finds and the completion of project construction, a report documenting monitoring, methods, and findings should be prepared by the paleontologist and submitted, along with a copy of the monitoring report, to the City, the project applicant, and a suitable fossil repository. (LTS)

